

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Monica Potts	Team: Team # 5	CCRB Case #: 200304496	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/07/2003 4:00 PM	Location of Incident: corner of 104th Street and Park Avenue.	Precinct: 23	18 Mo. SOL 12/7/2004	EO SOL 12/7/2004	
Date/Time CV Reported Fri, 06/13/2003 6:17 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Fri, 06/13/2003 6:17 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Angus Mackenzie	20667	922682	PBMN AC
2. SGT Robert Abramson	02187	905644	PBMN AC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Rashford Dean	13406	901422	PBMN AC
2. POM Jonathan Fox	25172	922366	PBMN AC

Officer(s)	Allegation	Investigator Recommendation
A.POM Angus Mackenzie	Force: Officer Angus Mackenzie used physical force against § 87(2)(b)	
B.SGT Robert Abramson	Force: Sgt. Robert Abramson used physical force against § 87(2)(b)	
C.SGT Robert Abramson	Discourtesy: Sgt. Robert Abramson spoke rudely to § 87(2)(b)	

## Synopsis

Anthony § 87(2)(b) a § 87(2)(b), filed this complaint on June 7, 2003 on behalf of his brother, § 87(2)(b) a § 87(2)(b) African-American male who is a student at § 87(2)(b). That same day, he had been stopped and issued a summons for riding on his bicycle on the sidewalk by plainclothes officers in an unmarked vehicle. He alleged that the officers pushed § 87(2)(b) off of his bicycle. No injuries were claimed. The complaint was forwarded to the CCRB, with § 87(2)(b) as the complainant, on June 13, 2003. § 87(2)(b) rejected mediation. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

## Summary of Complaint

§ 87(2)(b) was contacted by the CCRB on June 17, 2003 (encl. 5 a). On the day of the Puerto Rican Day Festival, June 7, 2003, on 104th Street and Park Avenue in Manhattan, he stopped at a light on his bicycle when a car stopped and a man got out and began to chase him. The man did not identify himself as an officer, so § 87(2)(b) unsure about who was chasing him, rode away. Four or five officers came and knocked him off his bike, threw him in a puddle, and handcuffed him. § 87(2)(b) was not arrested but was issued a summons for riding his bike on the sidewalk.

§ 87(2)(b) was interviewed at the CCRB on July 11, 2003 (encl. 5 a-e). On June 7, 2003 he and his friend § 87(2)(b) were riding their bicycles around 4:00 p.m. southbound on Park Avenue. § 87(2)(b) was riding on the sidewalk. He stopped at the corner of 104<sup>th</sup> and a car stopped beside him. It was a newer model four-door black car. The driver got out and said, "Come here," and began to chase him, and § 87(2)(b) started riding his bike away from him. § 87(2)(b) claimed that he was not aware that they were officers until much later, but this man was later identified as Officer Rashford Dean. He continually looked back, and Officer Dean kept chasing him.

§ 87(2)(b) was able to race away about half a block south on Park Avenue. Officer Mackenzie and Sgt. Abramson were down the block and cut him off. Officer Dean caught up and allegedly pulled him off of his bike and he landed in a puddle on the ground. § 87(2)(b) had kept going and did not witness the incident. By this time he realized they were officers. § 87(2)(b) was handcuffed and picked up from the ground. They had a discussion about the fact that § 87(2)(b)'s brother is an officer. Officer Dean issued him a summons, and Sgt. Abramson allegedly asked him if he was stupid and he told them he did not know who they were.

During the entire process, he never heard sirens or saw a badge on any of the officers. After being issued a summons he was allowed to leave. § 87(2)(b) obtained Officer Dean's name from the summons. The incident lasted fifteen minutes.

§ 87(2)(b) was contacted on August 22, 2003 when mediation was offered and was rejected. § 87(2)(b) was not interested and stated that he did not have the time (encl. 16 b).

## Results of Investigation

### **Officer Statements**

#### *Officer Rashford Dean*

Officer Dean, of Patrol Borough Manhattan North Anti-Crime, did not have any memo book entries regarding this incident (encl. 6 a-c).

Officer Dean was interviewed at the CCRB on September 25, 2003 (encl. 7 a-b). On June 7, 2003 Officer Dean was working with Officers Jonathan Fox and Angus Mackenzie and Sgt. Abramson detailing the Puerto Rican Day Festival. They were driving an unmarked Pontiac Bonneville.

At approximately 4:00 p.m. Officer Dean and the other officers were driving in the vicinity of 104<sup>th</sup> Street and Madison Avenue when they observed two men, one of them later identified by the officers as § 87(2)(b) riding their bicycles on the sidewalk. The officers never identified his friend, § 87(2)(b). They followed them to 104<sup>th</sup> Street and Madison where Officer Mackenzie and Sgt. Abramson got out of the car. Officer Dean, who was driving, proceeding down the street towards Park Avenue, following § 87(2)(b). Officer Dean did not hear Officer Mackenzie or Sgt. Abramson say anything to

them and did not know if their shields were displayed. Officer Dean could not tell if § 87(2)(b) and his friend knew who they were at this point.

Officer Dean got out of the car with his shield displayed, near § 87(2)(b) who saw him and began pedaling in the opposite direction. Officer Dean did not recall if he said, "Police, stop!" or anything to that effect, and did not recall whether any other officer said this. He stated, however, that it was likely that someone did. Officer Dean began to chase him, and claimed that § 87(2)(b) continued to look back at him laughing. § 87(2)(b) went in the opposite direction and was not caught by them. Officer Dean chased § 87(2)(b) for about half a block.

The other two officers were still waiting at the corner, and § 87(2)(b) was not aware that they were there as he was continually looking back. When § 87(2)(b) approached them they grabbed him and took him off the bike. When Officer Mackenzie and Sgt. Abramson grabbed § 87(2)(b) he fell to the ground. Officer Dean and Officer Fox, who had turned the car around, caught up. Officer Dean stated that the fall was incidental to their stop of § 87(2)(b) and was not excessive. § 87(2)(b) was handcuffed and frisked but was released with a summons. Officer Dean, who recognized § 87(2)(b)'s name and knew his brother was an officer, said, "What are you doing, your brother's an officer?" § 87(2)(b) just shook his head in response. He denied that he ever told § 87(2)(b) that he was stupid for not knowing they were officers. The entire incident lasted about five to ten minutes.

#### *Officer Jonathan Fox*

Officer Fox, of Patrol Borough Manhattan North Anti-Crime, did not have any memo book entries regarding this incident (encl. 8 a-b).

Officer Fox was interviewed at the CCRB on September 25, 2003 (encl. 9 a-b). On June 7, 2003 he was working with Officers Mackenzie and Dean and Sgt. Abramson detailing the Puerto Rican Day Festival from 8:30 a.m. until 6:05 p.m. They were in plainclothes and driving an unmarked blue or black Pontiac Bonneville.

Officer Fox was in the front passenger seat, Officer Dean was driving, and Sgt. Abramson and Officer Mackenzie were in the back of the vehicle. They were driving eastbound on 104<sup>th</sup> Street towards Madison Avenue at approximately 4:00 p.m. when they observed § 87(2)(b) and § 87(2)(b) riding their bicycles on the sidewalk. Officer Mackenzie and Sgt. Abramson got out of the vehicle towards the corner of Madison and 104<sup>th</sup> in case § 87(2)(b) tried to run away when the others attempted to stop him, and Officers Dean and Fox proceeding down the block towards Park Ave., approaching § 87(2)(b). Officer Fox did not know whether or not Officer Mackenzie or Sgt. Abramson had their shields out.

From the window, Officer Dean, who had his shield out, asked § 87(2)(b) to hold up for a second. Officer Fox did not recall if he said police, but said it was common to do that. He did not know if Officer Dean's shield was visible to § 87(2)(b) at that time or not. § 87(2)(b) looked back, turned around and began riding his bike back towards Madison Avenue. Officer Dean got out of the vehicle and began chasing him, and § 87(2)(b) kept turning around and laughing. Officer Fox got out into the driver's seat, did a U-turn, and approached. § 87(2)(b) went another way and was never stopped. Officer Fox stated that it was clear that they were officers.

By the time Officer Fox approached the area § 87(2)(b) was already handcuffed. He arrived when they had gotten his ID and were asking him about why he had been running from the police. They asked him if he had any warrants. He never saw § 87(2)(b) on the ground, but the bike was lying on the ground. § 87(2)(b) informed them that his brother was an officer and Officer Dean knew his brother. The officers ran his name and he was clear and was released with a summons. Officer Fox denied ever hearing any officer tell § 87(2)(b) that he was stupid for not knowing they were officers.

#### *Officer Angus Mackenzie*

Officer Mackenzie, who is assigned to Patrol Borough Manhattan North Anti-Crime, did not have any memo book entries regarding this incident (encl. 10 a-b).

Officer Mackenzie was interviewed at the CCRB on September 25, 2003 (encl. 11 a-b). On June 7, 2003 Officer Mackenzie worked from 8:40 a.m. until 7:15 p.m. on an anti-crime detail with Officer Fox, Officer Dean, and Sgt. Abramson. They were in plainclothes and driving an unmarked Pontiac Bonneville. It was raining and it was the day during the 116<sup>th</sup> Street Festival.

Officer Mackenzie stated that at approximately 4:00 p.m. § 87(2)(b) and § 87(2)(b) riding his bicycle on the sidewalk. Sgt. Abramson ordered the stop of § 87(2)(b). Their car approached him, and just before they caught up with him Officer Mackenzie and Sgt. Abramson exited the vehicle. Officer

Mackenzie believed he had his shield out and did not recall whether Sgt. Abramson did or not. However, he stated that it was standard to have it out. Neither Officer Mackenzie nor Sgt. Abramson made an attempt to stop § 87(2)(b) at this time, but waited.

Officer Dean and Officer Fox remained in the vehicle, and Officer Dean, the driver, approached § 87(2)(b) and there was a conversation between them. They had to drive the wrong way up the block to do it. He clarified that he just witnessed the car pull up alongside § 87(2)(b) and did not know if they said anything, and could not hear. Officer Mackenzie and Sgt. Abramson were about half a block away. He stated, however, that every time an officer approaches someone on the street it's standard to say "Police, hold up." § 87(2)(b) turned around and began approaching Officer Mackenzie and Sgt. Abramson. The other individual got away. Officer Dean chased § 87(2)(b) as he drove away on the bicycle and Officer Fox was in the vehicle. Officer Mackenzie did not know whether Officer Dean's shield was out. No one said anything to § 87(2)(b) who was reportedly looking back over his shoulder laughing at Officer Dean as he chased him.

§ 87(2)(b) saw the other officers and began to slow down. Officer Mackenzie assumed that this was because § 87(2)(b) saw his shield, and stated it was apparent that he knew who they were. Officer Mackenzie and Sgt. Abramson stopped him by grabbing him off the bicycle. He did not know if § 87(2)(b) fell to the ground but remembered that the bike came out from underneath him. They handcuffed him because they did not know why he had been running from the police. Officer Mackenzie stated that that made them think he may have had a knife or gun on him and it was for their safety. He was released with a summons, which was ordered by Sgt. Abramson. Officer Mackenzie denied that any officer said that he was stupid if they didn't know they were officers. He did recall that he mentioned his brother mentioned he was an officer.

#### *Sgt. Robert Abramson*

Sgt. Abramson's memo book did not have any entries regarding this incident (encl. 12 a-b). Sgt. Abramson works for Patrol Borough Manhattan North Anti-Crime.

Sgt. Abramson was interviewed at the CCRB on September 26, 2003 (encl. 13 a-b). On June 7, 2003 Sgt. Abramson supervised an anti-crime team assigned to the Puerto Rican Day Festival detail which included Officers Fox, Dean, and Mackenzie. They worked from 8:40 a.m. until 7:25 p.m. in plainclothes and driving an unmarked Pontiac Bonneville.

It was a rainy day and they were paying special attention to quality of life issues. They had observed several individuals riding their bicycles on sidewalks that day. They had issued summonses to these individuals without incident. At approximately 4:00 p.m. they observed § 87(2)(b) and § 87(2)(b) riding their bikes on the sidewalk, and he and Officer Mackenzie got out of the vehicle. When they first saw them they said "Police," and the kids didn't stop, and it was for this reason that they got out of the vehicle and Officer Dean and Officer Fox attempted to stop them again.

Officer Dean and Officer Fox remained in the car and drove past § 87(2)(b) and his friend. They were about half a block away. Officer Dean and Officer Fox put on their lights in an attempt to pull the two over, and § 87(2)(b) and his friend went in two different directions. They had a dome light on the dashboard and allegedly flashed their headlights on and off. The driver, who he believed was Officer Dean, spoke to § 87(2)(b) who raced away toward Sgt. Abramson and Officer Mackenzie. Sgt. Abramson affirmed that they all had their shields out. He affirmed that § 87(2)(b) became clear during the length of the stop that they were officers.

Officer Dean got out of the vehicle and started to chase § 87(2)(b) who turned his head around and was laughing at Officer Dean, and then turned around again and saw Sgt. Abramson and Officer Mackenzie. § 87(2)(b) stopped, and Officer Mackenzie and Sgt. Abramson grabbed him. They grabbed him by his arms and handcuffed him. They anticipated a struggle but he did not struggle at all. § 87(2)(b) had stopped his bike by the time he approached them and it had started to skid a bit.

They identified him, checked for warrants, and Officer Dean issued him a summons. § 87(2)(b) was never stopped. § 87(2)(b) told them that his brother was an officer. Sgt. Abramson denied that he or any other officer said he was stupid for not knowing they were officers. § 87(2)(b) did tell them at one point that he didn't know they were cops and Sgt. Abramson responded, "You didn't see the lights?"

## Police Department Documents

Officer Dean issued § 87(2)(b) summons number § 87(2)(b) to § 87(2)(b) for riding his bicycle on the sidewalk (encl. 14).

### Conclusions and Recommendations

#### Undisputed Facts

§ 87(2)(b) was riding his bicycle on the sidewalk at the date and time in question when officers in an unmarked vehicle approached him. Officer Dean got out of the vehicle and attempted to stop him, and § 87(2)(b) started to flee on his bike. Officer Mackenzie and Sgt. Abramson physically stopped him, grabbed him, and handcuffed him. § 87(2)(b) was issued a summons and released, and there was some conversation regarding whether or not he knew they were officers.

§ 87(2)(b), § 87(2)(g)

#### Police Officer Identification

Officer Dean was identified as the officer who issued him the summons, and it was in this method that the team was identified through the roll call. The descriptions of the officers by § 87(2)(b) as well as the testimony of all of the officers, identified Officer Mackenzie and Sgt. Abramson as the two who physically stopped him while he was on his bicycle. Additionally, § 87(2)(b)'s description of Sgt. Abramson, who was the shortest, and the only officer with brown hair who was shorter than § 87(2)(b) identified him as the subject of the discourtesy allegation.

**Allegation A) Force: Officer Angus Mackenzie used physical force against § 87(2)(b)**

**Allegation B) Force: Sgt. Robert Abramson used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that the officers used physical force against § 87(2)(b) when they grabbed him off of his bicycle, knocking him to the ground. Each of the officers corroborated that Officer Mackenzie and Sgt. Abramson forcibly stopped § 87(2)(b) from continuing to run on his bike. Only Officer Dean positively recalled him falling to the ground, but Officer Mackenzie did remember that his bike fell from under him and did not remember whether § 87(2)(b) fell to the ground as well. § 87(2)(g)

§ 87(2)(b) had admittedly been riding his bicycle on the sidewalk. § 87(2)(b), § 87(2)(g)

**Allegation C) Discourtesy: Sgt. Robert Abramson spoke rudely to § 87(2)(b)**

§ 87(2)(b) alleged that Sgt. Abramson spoke rudely to him when he said that he was stupid if they didn't know they were officers. Sgt. Abramson admitted that § 87(2)(b) told them that he wasn't aware of who they were when he raced away. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: